



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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Chief Executive Officer

May 13, 2013

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To: Supervisor Mark Ridley-Thomas, Chairman  
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From: William T Fujioka  
Chief Executive Officer

## **MOTION TO DIRECT THE SACRAMENTO ADVOCATES TO SUPPORT SENATE BILL 405 (PADILLA) IF AMENDED TO INDICATE THAT THE BILL WOULD NOT PREEMPT STRICTER BAG ORDINANCES THAT LOCAL JURISDICTIONS HAVE ENACTED (ITEM NO. 79-D, SUPPLEMENTAL AGENDA OF MAY 14, 2013)**

Item No. 79-D on the May 14, 2013 Supplemental Agenda is a motion by Supervisor Molina to support Senate Bill 405 (Padilla) if amended to indicate that the bill would not preempt stricter bag ordinances that local jurisdictions have enacted.

### **Existing Law**

Existing law, until January 1, 2020, requires an operator of a store, as defined, to establish an at-store recycling program that provides customers the opportunity to return clean plastic carryout bags to that store. Additionally, approximately 70 local governments throughout the State have adopted ordinances banning plastic bags, including the County. The County's ordinance bans single-use plastic carryout bags at stores in the County's unincorporated areas, while requiring stores charge 10 cents for each paper carryout bag sold to a customer. The 10-cent charge on paper bags is not subject to State sales tax and is to be retained by stores for use in complying with the ordinance.

### **Senate Bill 405**

SB 405 (Padilla), which as amended on April 2, 2013, would: 1) as of January 1, 2015, prohibit stores that have a specified amount of dollar sales or retail floor space from providing a single-use carryout bag to a customer; 2) require these stores to meet other specified requirements regarding the provisions of recycled paper bags, compostable bags, or reusable grocery bags to customers; 3) on or after January 1, 2016, impose

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these prohibitions and requirements on convenience food stores, foodmarts, and certain other specified stores; 4) require a reusable grocery bag that a store is required to sell on and after July 1, 2016, to meet specified requirements; 5) require the California Department of Resources Recycling and Recovery, by January 1, 2017, to submit a report to the Legislature regarding the implementation of the bill's provisions; and 6) allow a city, county, or city and county, or the State to impose civil penalties for a violation of the bill's requirements, except for the certification requirements. The bill would require these civil penalties to be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action, and would allow the penalties collected by the Attorney General to be expended, upon appropriation by the Legislature, to enforce the bill's provisions.

SB 405 is supported by: California Coastkeeper Alliance, Californians Against Waste; City and County of San Francisco; Heal the Bay; Marin County Hazardous & Solid Waste Management Joint Power Authority; Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force; Natural Resources Defense Council; and Sierra Club, among others.

The bill is opposed by: Advance Polybag, Inc.; American Forest and Paper Association; Bell Gardens Chamber of Commerce; Crown Policy, Inc.; Elkay Plastics Co., Inc.; Hilex Poly Co.; Mendocino Solid Waste Management Authority; Southgate Chamber of Commerce; and U.S. Black Chamber, Inc., among others.

SB 405 is currently in the Senate Appropriations Committee Suspense File.

### **Analysis**

The Department of Public Works (DPW) reports that SB 405 would enact into statute the provisions of dozens of single-use plastic bag bans that are currently in place throughout the State, including the Single Use Bag Reduction Ordinance adopted by the County in November 2010. Specifically, SB 405 would phase out single-use plastic carryout bags by prohibiting supermarkets, pharmacies, and other food-related retailers similar in definition to those identified by the County from providing a single-use carryout bag (i.e. paper, plastic, or other material) to a customer at the point-of-sale on or after January 1, 2015, and prohibiting convenience stores and foodmarts from providing a single-use carryout bag at the point-of-sale on or after July 1, 2016. The bill would also require these stores to make reusable bags available to consumers and to place a charge on paper bags, if they are provided to customers. The bill would also establish a State-wide standard for reusable bags which is very similar to the standard established by the County.

The Department of Public Works indicates that, if enacted, SB 405 would further assist local governments to reduce the amount of plastic carryout bags that are disposed or littered, thereby reducing blight and other environmental impacts associated with such litter and

improving the quality of life of County residents. Additionally, this bill would help mitigate the costs of compliance with the Federal Clean Water Act. **DPW estimates that enactment of SB 405 would save the County approximately \$1.0 million annually in cleanup and prevention efforts.**

The Department of Public Works indicates that SB 405 may preempt local ordinances which have enacted stricter bag policies, such as the County's ordinance. DPW recommends support for SB 405 with a request to amend the bill to add a provision that states local government ordinances that have already been enacted and which prescribe more stringent policies concerning bags would not be preempted and would remain in effect.

As reported in the April 26, 2013 Sacramento Update, consistent with existing policy, this office and the Department of Public Works took a position to support SB 405 if amended to: 1) establish specific minimum Statewide standards; and 2) add a specific provision in the bill stating that local government ordinances that have already been enacted and which prescribe more stringent policies concerning bags would not be preempted and would remain in effect.

Support for SB 405 is also consistent with the County's support of AB 298 (Brownley) of 2012, which was substantially similar to SB 405 and generally would have prohibited retail stores from providing single-use plastic bags to customers and would have required retailers to make reusable grocery bags available for purchase by customers. AB 298 failed passage in the Senate Appropriations Committee.

### **Conclusion**

**Approval of this motion to support SB 405 if amended to indicate that the bill would not preempt stricter bag ordinances that local jurisdictions have enacted is consistent with existing Board-approved policy.** The County's State Legislative Agenda contains policy to support legislation which reduces the environmental impacts of single-use carryout bags and decreases the financial burden on local governments to address those impacts, including legislation which seeks to promote the use of reusable bags, reduce the use of plastic or paper carryout bags, and/or increase at-store recycling of carryout bags.

WTF:RA  
MR:AO:lm

c: Executive Office, Board of Supervisors  
County Counsel  
Department of Public Works  
Department of Regional Planning